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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/557,495	04/24/2000	Roy Abell	P093 1020 (38379.0003.3)	7643

7590 04/01/2002

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EXAMINER

MAYNARD, JENNIFER J

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 04/01/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/557,495

Applicant(s)

ABELL ET AL.

Examiner

Jennifer J Maynard

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-7 and 9 is/are rejected.
- 7) ☒ Claim(s) 2-4,8,10 and 11 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Clayton (US 4,403,982 A).

Clayton discloses a colon cleansing technique comprising filling the colon with lavage liquid to a predetermined level, approximately (1500 cc to 3000 cc) thus completely filling the colon to the cecum, see Column 17, lines 60-65, inducing a pulsing action in the lavage liquid within the colon to loosen impacted material and stimulate peristaltic activity of the colon, see Column 18, lines 16-27, and draining the lavage liquid from the colon, see Column 18, lines 32-33.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clayton (US 4,403,982 A) in view of Witt et al. (US 5,071,104 A).

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Clayton discloses the method as claimed with the exception of the inflow valve for delivering lavage liquid to the colon, and opening/closing the inflow valve according to a predetermined cycling schedule

Witt et al. fails to disclose a three-way valve for a wound (e.g. vagina or rectum) irrigation apparatus, wherein a the valve allows for a steady stream of cleaning solution at a pressure of less than one atmosphere and wherein an intermediate position in the three-way valve allows for a gently pulsating stream for enhanced cleaning. Witt discloses prior art wound irrigation devices which utilized manually operable valves to control the rate of administering a liquid such as tap water to the rectum post-surgery.

It would have been obvious to one having ordinary skill in the art to have modified Clayton's colon cleansing device with a device having a low-pressure pulsating stream as taught by Witt et al., so as to prevent any undue trauma in the colon and to enhance cleaning.

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clayton (US 4,403,982 A) in view of Abell et al. (US 5,405,319 A).

Clayton discloses the method as claimed with the exception of the inflow valve for delivering lavage liquid to the colon and the outflow valve for draining lavage liquid from the colon.

Abell et al. discloses a bowel evacuation system comprising an inflow valve (16) for controllably delivering a lavage solution and an outflow valve (32) for evacuating the lavage solution from the colon.

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It would have been obvious to one having ordinary skill in the art to have provided Clayton with a means for metering flow of the lavage solution so as to ensure adequate saturation of any impacted fecal matter within the colon thus allowing for complete evacuation, and a means for controllably evacuating the colon to prevent premature evacuation of the lavage solution.

***Allowable Subject Matter***

Claims 2-4, 8, 10 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer J Maynard whose telephone number is 703.305.1356. The examiner can normally be reached on 10:30 am-8:30 pm; 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 703.308.3552. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9302 for regular communications and 703.872.9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0858.

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J Maynard

March 25, 2002

*J Maynard*

*Brian L. Casler*  
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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700